

REMARKS

Claims 1-15 were presented and examined. In response to the Office Action, Claims 1, 5, and 9 are amended, no claims are cancelled, and no claims are added. Applicants respectfully request reconsideration in view of the foregoing amendments and the remarks that follow.

I. Claims Rejected Under 35 U.S.C. § 103

Claims 1-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over “Using XML Schemas to Create and Encode Interactive 3-D Audio Scenes for Multimedia and Virtual Reality Applications,” by Potard (“Potard”) in view of “Extending SMIL With 3D Audio,” by Pihkala (“Pihkala”).

In regard to the § 103 rejection of claim 1, claim 1 is amended to include the elements of “the sound object including the plurality of point sound sources.” The amendments are supported, for example, by page 9, line 34 to page 10, line 23 of the Specification. As disclosed in the Specification, one of the goals of the present invention is to reduce the amount of objects required to model a single sound source as compared to the prior art. See Specification, page 8, lines 14-24. This is achieved by including point sound sources on the surface of the three-dimensional space to model the sound source object in a single sound object. See Specification, page 9, lines 18-31 and page 9, line 34 to page 10, line 23. Therefore, a single sound object can be used to represent multiple point sound sources instead of requiring multiple sound objects as in the prior art.

Potard fails to teach or suggest the above cited elements. In contrast, as shown in Table 1, Potard teaches that each sound source (i.e., an elementary object) may include attributes such as spatial size and shape. See Potard, Section 2.1. However, the spatial size and shape is limited to *a single sound source*. The Examiner has now cited to section 2.3.1 to allege that Potard teaches the plurality of point sound sources as recited in claim 1. However, this portion of Potard exhibits the same disadvantages of the prior art as described above. In particular, Potard describes a macro-object that includes multiple elementary and/or macro-objects to model a particular sound source. Thus, because multiple objects are required to model, for example, a choir or a swimming pool, Potard fails to teach or suggest the elements of “the sound object

including the plurality of point sound sources,” as recited in amended claim 1. Thus, in view of at least these foregoing reasons, Potard fails to teach or suggest each element of amended claim 1.

Pihkala also fails to teach or suggest the above cited elements of amended claim 1. Although Fig. 1 of Pihkala teaches that an SMIL audio object can be extended to include x, y, and z coordinates to represent a sound source, this only relates to a single sound source instead of the elements of “the sound object including *the plurality of point sound sources*,” (emphasis added) as recited in amended claim 1. See Pihkala, Section 3.1. This is because the SMIL object shown in Fig. 3 of Pihkala only includes *a single sound source* (i.e., src=“music.wave”). See Pihkala, Section 3.4. Therefore, Pihkala fails to teach or suggest the elements of “the sound object including the plurality of point sound sources,” as recited in amended claim 1. Thus, for at least these reasons, Pihkala fails to teach or suggest each element of amended claim 1.

Therefore, in view of at least the above reasons, Potard in view of Pihkala fails to teach or suggest each element of amended claim 1. Accordingly, reconsideration and withdrawal of the rejection of amended claim 1 are respectfully requested.

In regard to claims 5 and 9, claims 5 and 9 are amended to recite analogous limitations to those discussed above in amended claim 1 that distinguish over the cited art. Therefore, for at least the reasons mentioned in connection with amended claim 1, Potard in view of Pihkala fails to teach or suggest each element of amended claims 5 and 9 as well. Accordingly, reconsideration and withdrawal of the rejection of amended claims 5 and 9 are respectfully requested.

In regard to dependent claims 2-4, 6-8, and 10-15, these claims are patentable over the cited art because each of these claims depends on amended claim 1, 5, or 9. Accordingly, reconsideration and withdrawal of the rejection of claims 2-4, 6-8, and 10-15 are respectfully requested.

II. Non-Statutory Double Patenting

Claims 1-15 are provisionally rejected on grounds of non-statutory obviousness-type double patenting over claims 1-10 of U.S. Patent Application Serial No. 11/796,808 in view of Pihkala.

In response, Applicants are filing simultaneously herewith, a terminal disclaimer in which a terminal portion of the claims of the subject application that extends beyond the term of the claims of the copending U.S. Patent Application No. 11/796,808, if the subject application were to mature into a granted patent is disclaimed. It is respectfully submitted that in view of the terminal disclaimer, the Examiner should withdraw the rejection of claims 1-15 under the judicially created doctrine of obviousness-type double patenting.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action dated October 23, 2008, Applicants respectfully petition the Commissioner for a one (1) month extension of time, extending the period for response to February 23, 2009. The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$65.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(2) small entity.

Respectfully submitted,

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Suzanne Johnston

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